STATE OF NEW YORK
UNEMPLOYMENT INSURANCE APPEAL BOARD
PO Box 15126
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DECISION OF THE BOARD

Mailed and Filed: MARCH 09, 2023

IN THE MATTER OF:
Appeal Board No. 626939

PRESENT: RANDALL T. DOUGLAS, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective June 24, 2022, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances on behalf of the claimant and the employer. By decision filed November 22, 2022 (), the Administrative Law Judge overruled the initial determination.

The employer appealed the Judge's decision to the Appeal Board.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant worked for a coffee shop as a part-time barista while attending high school, from August 11, 2020 to June 23, 2022. During the last year of her employment, the claimant worked daytime shifts on Wednesday, Friday and Saturday, for a total of 20 hours each week.

The work schedule is made out three weeks in advance. At least three weeks before her last day of work, the claimant advised her manager that she would need to reduce her work hours in July because she would be starting medical stenography school full-time on July 11. The claimant also asked not to be placed on the schedule during the last week of June because she wanted some time to herself before school began. The manager offered to let the claimant

work one evening shift during the week and shifts on Saturday and Sunday for a total of 20 hours, so that she could continue to meet the employer's minimum requirement for maintaining employment. The claimant advised the manager that she would be unavailable to work during the week because she was in school all day. She also stated that she could not work at night during the week since her school day would be long and the school is such a distance from the workplace that she likely would not be able to report until just before, or after, the shop closed for the evening. She informed the manager that she could not work both Saturday and Sunday because she needed one of those days to spend with her father each week.

The claimant subsequently had a telephone conversation with the manager with respect to her proposed reduction in work hours, after she saw that she was not on the schedule as of June 27. She advised the manager that in the future, she could work only on Saturday, and reiterated that she could not work during the week. This was overheard by the claimant's mother. The manager indicated to the claimant that her request to work on Saturday only could not be accommodated. The claimant's job ended because the employer would not accommodate her requested reduction in hours so that she could attend school. The claimant could have continued in her employment if she was willing to work 20 hours each week.

OPINION: The credible evidence establishes that the claimant's employment ended because the employer would not accommodate her request to reduce her work hours below 20 hours each week so that she could attend school. The claimant concedes that during the last year of her employment, she worked on Wednesday, Friday and Saturday for a total of 20 hours. Her own witness confirmed that the claimant advised the employer that she could only work on Saturday after June 23, 2022, because she would be attending school. There is no dispute that the employer would not accommodate this request. We note that the employer was under no obligation to do so.

It is well-settled that where a claimant demands a reduction in work hours in order to attend school; the employer is either unable or unwilling to accommodate the requested reduction; and the claimant thereafter ceases to work his or her usual schedule in furtherance of educational goals, such circumstances constitute a voluntary leaving of employment that is without good cause for unemployment insurance purposes. The fact that the employer elects not to accommodate the request does not transform the separation into a discharge or lay off. Accordingly, we conclude that the claimant's employment

ended under disqualifying conditions and that she was properly denied benefits.

DECISION: The decision of the Administrative Law Judge is reversed.

The initial determination disqualifying the claimant from receiving benefits, effective June 24, 2022, on the basis that the claimant voluntarily separated from employment without good cause, is sustained.

The claimant is denied benefits with respect to the issues decided herein.

RANDALL T. DOUGLAS, MEMBER